

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

FREDERICK HERROD,

Plaintiff,

V.

MERRICK GARLAND,
U.S. Attorney General,

Defendant.

Case No. CIV-24-803-G

ORDER

Plaintiff Frederick Herrod, a federal prisoner appearing pro se, initiated this civil action on August 6, 2024. In accordance with 28 U.S.C. § 636(b)(1), the matter was referred to Magistrate Judge Shon T. Erwin for preliminary review.

On August 23, 2024, Judge Erwin issued a Report and Recommendation (Doc. No. 8) recommending that this action be dismissed on screening pursuant to 28 U.S.C. § 1915A for failure to state a claim upon which relief can be granted.

Plaintiff has now filed an Objection to the Report and Recommendation. *See* Doc. No. 10. Pursuant to controlling authority, the Court reviews de novo the portions of the R. & R. to which specific objections have been made. *See United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

In his Objection, Plaintiff argues against dismissal, noting that he has now filed a motion to amend his pleading along with a proposed amended complaint. *See* Pl.’s Obj. at 1; Pl.’s Mot. to Amend (Doc. No. 9).

Having reviewed Plaintiff's contentions, the Court finds that Plaintiff's request to amend should be considered. Plaintiff is advised that his attempt to continue with this litigation will be subject to the procedural requirements of the Federal and Local Civil Rules, as well as any applicable screening requirement of 28 U.S.C. § 1915A and/or the *in forma pauperis* statutes.

CONCLUSION

Accordingly, the reasoning of the Report and Recommendation (Doc. No. 8) is ADOPTED. The Court declines to dismiss this matter at this time.

Plaintiff's Motion for the Court to Take Judicial Notice (Doc. No. 11) of the mailing and filing dates of his Objection is DENIED, as the Objection is accepted as timely filed.

This matter is re-referred to Judge Erwin in accordance with the initial order of referral.

IT IS SO ORDERED this 22nd day of November, 2024.



CHARLES B. GOODWIN
United States District Judge